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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,066

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Anthony Renfrew White

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT

PAPER NUMBER

3618

NOTIFICATION DATE

DELIVERY MODE

04/22/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/586,066	Applicant(s) WHITE, ANTHONY RENFREW	
	Examiner JOHN D. WALTERS	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 - 11, 14 and 16 - 20 have been examined. Claims 12, 13 and 15 have been canceled by Applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 - 6, 8 - 11, 14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurn (3,055,523) in view of Hamilton, Jr. (2,653,679) and Vervaeke (BE 1012085A6). Wurn discloses an extension hand truck comprising:

- a hand truck for transporting a load (Fig. 1);
- a sub-frame with a foot portion (Figs. 1 and 2, item 1);
- a main frame engaged with said sub frame (Figs. 1 and 2, item 2);
- said sub-frame being capable of being extended and retracted with respect to a lower end of said main frame (Fig. 5);
- at least one wheel secured to said main frame (Figs. 1 and 2, item 16);
- a flexible linkage connecting said main frame and said sub frame with a power source (Fig. 1, item 30);

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- one end of said flexible linkage being secured to said main frame and another end of said linkage being secured to said sub-frame, said ends being connected relative to said sub-frame (Fig. 1);
- said sub-frame including a pair of side rails and at least one cross member (Fig. 1, items 1 and 4);
- said sub-frame including an extension which is selectively extendable (Fig. 5);
- said main frame including a pair of side rails and at least one cross member (Fig 1, items 2 and 41);
- a handle (Fig. 1, item 57);
- said sub-frame being telescopically received by said main frame (Figs. 5 and 6).

Wurn does not disclose the use of a motor for providing power to said hand truck.

Hamilton, however, discloses an automatic leveling mechanism for a hoisting truck comprising:

- an electric motor (Fig. 11, item 13);
- a controller, including a switch, coupled to said motor for enable control by a user (column 7, lines 34 - 46);
- said motor including a gearbox (Fig. 1, item 12);
- a flexible linkage being a roller chain (Fig. 1, item 8);

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- said flexible member being trained around a rotatable member, i.e. sprocket, driven by said motor and trained around another rotatable member secured relative to said sub-frame (Fig. 2, items 7 and 9);
- safety switches operable to control said motor to prevent extension or retraction of a sub-frame (column 4, lines 15 - 46).

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the hand truck of Wurn with the drive mechanism of Hamilton in order to provide a user with a manual control of a load support (Hamilton column 2, lines 28 - 30).

Wurn in view of Hamilton does not disclose a foot portion the raises and lowers relative to a wheel. Vervaeke, however, discloses a hand truck comprising:

- a foot portion (Fig. 1, item 9);
- said foot portion being configured to lower and elevate relative to a wheel (Figs. 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the teaching of foot movement of Vervaeke with the hand truck of Wurn in view of Hamilton in order to provide improved flexibility for loading and moving a load. This would allow a user to elevate said load as well as extract said load from a location lower than said hand truck.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wurn in view of Hamilton and Vervaeke as applied to claims 1 - 6, 8 - 11, 14, 16 and 18 above,

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and further in view of Wetzel. Wurn in view of Hamilton and Vervaeke does not disclose the use of wheel brakes. Wetzel, however, discloses a breakable hand truck comprising:

- selectively engagable wheel brakes (Fig. 2, item 38).

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the hand truck of Wurn in view of Hamilton and Vervaeke with the brake system of Wetzel in order to provide an ample braking force (Wetzel column 3, lines 11 - 13) which would provide a user with increased vehicle control.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wurn in view of Hamilton and Vervaeke as applied to claims 1 - 6, 8 - 11, 14, 16 and 18 above, and further in view of Tolly (6,457,727). Wurn in view of Hamilton and Vervaeke does not disclose the use of a slack reduction mechanism. Tolly, however, discloses a hand truck comprising:

- a spring capable of taking up slack in a flexible linkage (Figs. 1, 5 and 6, item 116).

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the hand truck of Wurn in view of Hamilton and Vervaeke with the spring of Tolly in order to provide a help prevent a load platform from

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transitioning too quickly and dangerously when a load is imposed or removed (Tolly column 1, lines 46 - 49).

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurn in view of Hamilton and Vervaeke as applied to claims 1 - 6, 8 - 11, 14, 16 and 18 above, and further in view of Senour (3,993,166). Wurn in view of Hamilton and Vervaeke does not disclose the use of a weight sensor. Senour, however, discloses an overload signaling system comprising:

- a weight sensor (Fig. 1, item 5c and column 4, lines 11 - 19);
- a safety switch operable by said weight sensor to prevent a lift mechanism from extending and retracting (Fig. 1, item 4 and column 2, lines 12 - 16).

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the hand truck of Wurn in view of Hamilton and Vervaeke with the weight sensor of Senour in order to provide a weight based fail-safe system for a lifting device. This increases user safety and decreases possibility of catastrophic component failure.

Response to Arguments

Applicant's arguments with respect to claims 1 - 11, 14 and 16 - 19 have been considered but are not persuasive.

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Applicant states, "Applicant respectfully asserts that none of Wurn, Hamilton, and Vervaeke, taken alone or in combination, teach a flexible linkage that is secured to a sub-frame at two ends."

Applicant appears to be arguing limitations not found within the claims. Applicant's claim language requires the ends of the flexible linkage be "secured relative to the sub-frame". The word relative indicates an item concerning or in proportion to something. Direct connection is not implied with the use of the term "relative".

Applicant also states, "In addition, since Hamilton is in the non-analogous art of heavy duty lifting systems (as opposed to the art of hand truck systems taught in Wurn and Applicant's disclosure)..."

Wurn and Hamilton relate to material movement carts. As such, they are analogous art.

Applicant also states, "...the proposed combination of the Wurn hand truck with the Hamilton heavy lifting system would require a change in the principle operation of at least one of the Wurn and Hamilton system, rendering the proposed combination respectfully improper...incorporating the drive mechanism of Hamilton with the hand truck of Wurn would render Wurn unsatisfactory owing to the weight of the drive mechanism."

Both Wurn and Hamilton disclose material movement carts including movable sub-frames. Wurn includes a hand crank and Hamilton includes a motor system. One

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of ordinary skill in the art would possess the knowledge and skill necessary to combine the two similar carts in a way appropriate for the intended cargo and method of use.

The combination of these two carts would not render the resulting apparatus unsatisfactory for moving a sub-frame along a main frame.

Applicant also states, "Applicant respectfully submits that none of the above references teach or suggest a flexible linkage to be trained about a rotatable member which is driven either directly or indirectly by the motor, and is also trained around another rotatable member secured relative to the main frame."

As stated in the above and prior rejections, this limitations is disclosed wherein the "another rotatable member" is attached to the sub-frame. As discussed above, the word "relative" does not imply a direct connection.

Applicant also states, in multiple locations, "...one of ordinary skill at the time of Applicant's invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying."

Each of the above and prior rejections include a statement of motivation for the combination. These have not been addressed by Applicant.

Applicant also states, "Tolly does not remedy the deficiencies of Wurn, Hamilton and Vervaeke, and does not teach a take up of slack in a flexible linkage (on the contrary, at column 7, lines 25-45 Tolly teaches a biasing means against a loaded

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platform 106), the proposed combination of Wurn, Hamilton, Vervaeke, and Tolly does not teach every element of Applicant's claim 17."

The biasing means of Tolly biases said loaded platform by keeping the flexible linkage taut, i.e. by taking up the slack. As such, it meets Applicant's claim limitations.

For these reasons, the rejections stand.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN D. WALTERS whose telephone number is (571)272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

John D. Walters
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